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Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories

Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan

Report by the Secretary-General

Summary

The present report has been prepared by the Office of the United Nations High Commissioner for Human Rights, pursuant to General Assembly resolution 66/78, in which the Assembly requested the Secretary-General to report to the Assembly at its sixty-seventh session on the implementation of the resolution. The period covered by the report is 1 July 2011 to 30 June 2012.

The construction of Israeli settlements in occupied Arab territories and its impact on the human rights of the residents are addressed in the report.

* A/67/150.

** The present report was submitted late in order to include up-to-date information from Member States, United Nations organizations, non-governmental organizations and human rights defenders.

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I. Introduction

1. In its resolution 66/78, the General Assembly expressed grave concern about the continuation by Israel, the occupying Power, of settlement activities in the Occupied Palestinian Territory, including East Jerusalem. The General Assembly also reiterated its demand for the immediate and complete cessation of Israeli settlement activities and called upon Israel, as the occupying Power, to comply strictly with its international law obligations and its obligations set forth in the advisory opinion rendered by the International Court of Justice on 9 July 2004.[1]

2. As requested by the General Assembly, progress made in the implementation of its resolution 66/78 is addressed in the present report. The period covered by the report is 1 July 2011 to 30 June 2012. The information contained in the report is based on monitoring and other information-gathering activities carried out by the Office of the United Nations High Commissioner for Human Rights and information provided by other United Nations entities in the Occupied Palestinian Territory, in particular the Office for the Coordination of Humanitarian Affairs, the United Nations Relief and Works Agency for Palestine Refugees in the Near East and the United Nations Children's Fund. The report also contains information received from Israeli and Palestinian non-governmental organizations, human rights defenders and media sources. It should be read in conjunction with previous reports of the Secretary-General on Israeli settlements (A/66/364, A/65/365, A/64/516 and A/63/519).

3. A number of relevant issues identified in General Assembly resolution 66/78 are addressed in separate reports of the Secretary-General submitted to the Assembly at its sixty-seventh session. They include the reports on Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem (A/67/372) and the Applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949 (the Fourth Geneva Convention), to the Occupied Palestinian Territory, including East Jerusalem, and the other occupied Arab territories (A/67/332).

II. Legal background

4. The applicable international legal framework in relation to Israeli settlements in the occupied territory can be found in international humanitarian law and international human rights law. The provisions concerning the responsibilities of

[1] In its advisory opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* of 2004 (see A/ES-10/273 and Corr.1), the International Court of Justice concluded that the Fourth Geneva Convention was applicable in the Palestinian territories which, before the 1967 conflict, lay to the east of the Green Line and which, during that conflict, were occupied by Israel. Since then a significant number of United Nations resolutions have reaffirmed the applicability of the Fourth Geneva Convention, the most recent being Human Rights Council resolutions S-9/1, 10/18 and 13/7 and General Assembly resolutions 63/96, 63/97, 63/201, 64/93, 65/103, 65/104 and 66/78. In its advisory opinion, the Court recalled that while Israel was not a party to the Hague Convention Respecting the Laws and Customs of War on Land of 18 October 1907 (convention IV), to which the Hague Regulations are annexed, the provisions of the Hague Regulations had become part of customary international law.

Israel in the occupied territories are set out in the Fourth Geneva Convention and in the Hague Regulations.[2] Although Israel has disputed the application of the Fourth Geneva Convention, the situation remains one of belligerent military occupation, as recognized by the Security Council, the General Assembly and the Human Rights Council, to which the Fourth Geneva Convention applies (see, for example, General Assembly resolutions 62/181 and 63/98, Security Council resolution 1860 (2009) and Human Rights Council resolution 10/18). Article 49 of the Fourth Geneva Convention explicitly prohibits an occupying Power from transferring parts of its own civilian population into the territory it occupies. This is an absolute prohibition which does not admit any exceptions.[3]

5. In addition to its obligations under international humanitarian law, Israel has responsibilities under the international human rights treaties that it has ratified, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The International Court of Justice affirmed that those Covenants and the Convention on the Rights of the Child were applicable in respect of acts carried out by Israel in the occupied territories (see A/ES-10/273 and Corr.1, paras. 102-113). Similarly, United Nations human rights treaty bodies have reaffirmed that, as a party to international human rights instruments, Israel continues to bear responsibility for implementing its human rights obligations in the occupied territories.[4]

III. Overview

6. As noted in previous reports to the General Assembly (A/63/519 and A/64/516), Israeli settlements are an obstacle to the creation of a future Palestinian state. Israel has committed itself under the Quartet road map to freeze all settlement activity, including the "natural growth" of settlements, a commitment never fully implemented. While there was a partial freeze of settlement activity for a period of 10 months in 2010, since then no further measures have been undertaken to meet that commitment. During the reporting period, Israeli settlements continued to expand, and new settlements were approved by the Government of Israel,[5] in clear

[2] The Hague Regulations are annexed to the Hague Convention Respecting the Laws and Customs of War on Land of 18 October 1907 (Convention IV).

[3] This prohibition was "intended to prevent a practice adopted during the Second World War by certain Powers, which transferred portions of their own population to occupied territory for political and racial reasons or in order, as they claimed, to colonize those territories. Such transfers worsened the economic situation of the native population and endangered their separate existence as a race", according to a commentary on article 49 of the Fourth Geneva Convention by Jean Pictet, ed., *The Geneva Conventions of 12 August 1949: Commentary published under the general editorship of Jean S. Pictet, IV Geneva Convention* (Geneva, International Committee of the Red Cross, 1958).

[4] An examination of the concluding observations of different United Nations treaty bodies confirms this view (see CCPR/C/ISR/CO/3, para. 5; CERD/C/ISR/CO/13, para. 32; CRC/C/15/Add.195; and CAT/C/ISR/CO/4, para. 11).

[5] For example, three "outposts", Sansana, Rechelim and Bruchin, were approved on 23 April 2012. "Outposts" are settlements which, although often established with some level of Government support, are not officially recognized under Israeli law. It should be stressed that all Israeli settlements in the Occupied Palestinian Territory, regardless of their status under Israeli law, are unlawful under international law.

violation of its obligations under international humanitarian law and despite repeated international condemnation.

7. Estimates of the Israeli settler population in the Occupied Palestinian Territory vary between 500,000 and 650,000, living in some 150 settlements and 100 "outposts" in the West Bank, including East Jerusalem.[6] The settler population (excluding that of East Jerusalem) has grown over the past decade at an average yearly rate of 5.3 per cent, compared with 1.8 per cent for the Israeli population as a whole. In the previous 12 months, that population increased by 15,579 persons.[7] From July to December 2011, 588 units in six settlements in the West Bank (excluding East Jerusalem) received Government approval.[8] On 6 June 2012, the Prime Minister of Israel announced a "package" meant to compensate for the evacuation of 84 housing units in the Ulpana area of the Beit El settlement. The package included the promise to build a total of 851 housing units in six settlements in the West Bank.[9]

8. Plans for construction in settlements in East Jerusalem were submitted and approved throughout the reporting period. For example, in September 2011, an Israeli planning committee approved a new project comprising 1,100 apartments in the settlement of Gilo.[10] On 18 April 2012, two Palestinian refugee families comprising 13 people were forcibly evicted by Israeli authorities from their houses in Beit Hanina in East Jerusalem, following a court case brought by an Israeli citizen supported by a "private" settler association, claiming ownership of the property. The houses, situated in a Palestinian neighbourhood, were subsequently handed over to settlers. Other such settlements in Palestinian neighbourhoods of East Jerusalem have been a source of settler violence and other forms of tension.

9. Developments linked to foreseen settlement expansion in the Jerusalem periphery are of concern. In July 2011, the Israeli Civil Administration indicated its intention to "relocate" Palestinian communities throughout Area C.[11] The primary target of the relocation plan would be 20 communities[12] located in the Jerusalem periphery.[13] The communities are in an area that has strategic significance for the

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[6] This number includes the nearly 200,000 Israeli settlers living in settlements located in East Jerusalem. In November 2011, Peace Now reported that the total number was 506,990 settlers (196,000 in East Jerusalem and 310,990 in the rest of the West Bank). In his 24 May 2011 speech to the Congress of the United States of America, the Prime Minister of Israel mentioned that 650,000 Israelis "live beyond the 1967 lines".

[7] "More than 350,000 Israelis live in settlements, up 4.5% in a year", *Israel Hayom*, 26 July 2012, citing statistics of the Ministry of the Interior.

[8] "Approvals by the Netanyahu Government for settlements", Peace Now, updated on 3 December 2011.

[9] "Netanyahu promises new West Bank construction, on heels of failed outpost bill", *Haaretz*, 7 June 2012.

[10] "Government okays 1,100 apartments in Gilo. US joins PA and UN in quickly expressing disapproval", *Jerusalem Post*, 28 September 2011.

[11] Office for the Coordination of Humanitarian Affairs, "Bedouin communities at risk of displacement due to an Israeli 'relocation plan'", *The Monthly Humanitarian Monitor*, July 2011, p. 3.

[12] These communities have a combined population of 2,300; Palestinian refugees account for 80 per cent of the total. The relocation initiative is part of a wider plan to transfer the Bedouin and other pastoral communities throughout Area C.

[13] "10 Oct. '11: Civil Administration plans to expel tens of thousands of Bedouins from Area C", *B'Tselem*, 10 October 2011.

further expansion of Israeli settlements.[14] The area has been the object of major development plans issued, but largely not implemented, by Israeli authorities.[11,14] Those plans include the wall and the so-called E1 Project,[11] which entails the creation of an Israeli urban continuum between the settlement of Ma'ale Adumim and East Jerusalem.[11,15] It is also planned that the area will be expanded and linked with smaller settlements in the area, such as Qedar, Kfar Adumim, the Mishor Adumim industrial zone and Almon; the area is considered of strategic importance to guarantee Israeli control of Route 1 linking Jerusalem and the Jordan Valley.[11] Numerous administrative demolition orders are pending against Palestinian homes, schools and animal shelters in the communities targeted for relocation.[14] Settlers have played an active role in encouraging demolitions. For instance, on 1 August 2011, the municipality of Kfar Adumim settlement petitioned the court demanding a formal explanation from the Israeli authorities on why the demolition order against the sole school in the Khan al-Ahmar Bedouin community, which had been issued in mid-2009, had not yet been implemented.[16]

IV. Impact of settlements on the right to self-determination

10. Israeli legal and administrative measures to furnish socioeconomic incentives, security, infrastructure and social services to citizens of Israel residing in the West Bank, including East Jerusalem, amount to the transfer by Israel of its population into the Occupied Palestinian Territory (see A/ES-10/273 and Corr.1, para. 120).[17] The continuation of that transfer and the maintenance and expansion of settlements have severe negative impacts on the right to self-determination of the Palestinian people. The right to self-determination is enshrined in Article 1, paragraph 2, of the Charter of the United Nations and article 1, paragraph 1, of both of the aforementioned international human rights covenants;[18] that right was reaffirmed by the International Court of Justice with regard to its applicability in the Occupied Palestinian Territory. The right to self-determination is generally understood as having several components, including the right to have a demographic and territorial presence and the right to permanent sovereignty over natural resources (ibid., paras. 133-134, and HRI/GEN/1/Rev.1, General Comment No. 12). Those elements are adversely affected not only by the expansion of Israeli settlements but also by the mere presence of the settlements.

11. One of the ways in which self-determination is implemented is through the establishment of a sovereign and independent state (see General Assembly resolution 2625 (XXV), annex, principle 5). One of the main characteristics of a state is territory. However, the current configuration and attribution of control over land in the Occupied Palestinian Territory severely impedes the possibility of the

[14] Office for the Coordination of Humanitarian Affairs, "Bedouin relocation: threat of displacement in the Jerusalem periphery", factsheet, September 2011.

[15] See Nir Shalev, "The hidden agenda: the establishment and expansion of Ma'ale Adumim and their human rights ramifications", B'Tselem and Bimkom, December 2009.

[16] "Bedouin near Ramallah face double-edged sword by Israeli settlers", *Haaretz*, 2 September 2011.

[17] This violates article 49 (6) of the Fourth Geneva Convention.

[18] Both the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, which entered into force in 1966 and 1976, respectively, have been ratified by Israel.

Palestinian people expressing their right to self-determination in the Occupied Palestinian Territory. In addition to large areas which have been declared closed military zones, some 43 per cent of the West Bank has been allocated to local and regional settlement councils, with the result that those areas are off-limits to Palestinians.[19] In addition, because settlements are scattered all across the West Bank, including East Jerusalem, the territory of the Palestinian people is divided into enclaves with little or no territorial contiguity. The network of settler roads and military checkpoints, which in many cases are there only to protect settlements, and settlers using the roads throughout the West Bank compound the problem by denying the Palestinians territorial contiguity while occupying a significant area of land. The fragmentation of the West Bank undermines the possibility of the Palestinian people realizing their right to self-determination through the creation of a viable state.

12. The demographic and territorial presence of the Palestinian people in the Occupied Palestinian Territory is put at risk by the continued transfer by Israel, the occupying Power, of its population into the occupied territory (see para. 10 above). Between 500,000 and 650,000 Israeli settlers live among 2,642,000 Palestinians in the West Bank, including East Jerusalem.[20] The transfer by Israel of approximately 8 per cent of its citizens into the Occupied Palestinian Territory since the 1970s has changed the demography of the West Bank, including East Jerusalem. Israeli settlers now represent approximately 19 per cent of the overall population of the West Bank. In its advisory opinion of 2004, the International Court of Justice concluded that the construction of the wall, coupled with the establishment of Israeli settlements, was altering the demographic composition of the Occupied Palestinian Territory, and thus was severely impeding the exercise by the Palestinian people of their right to self-determination (see A/ES-10/273 and Corr.1, paras. 122 and 123).

13. Settlements and the associated restrictions on the access of Palestinians to large portions of the West Bank do not allow the Palestinian people to exercise permanent control over natural resources. As previously mentioned, some 43 per cent of the West Bank is under the de facto jurisdiction of local or regional settlement councils, thereby serving to prohibit the Palestinian people from controlling the natural resources located in those areas. For example, 37 Israeli settlements are located in the Jordan Valley, the most fertile and resource-rich area in the West Bank. In respect of the Jordan Valley and the Dead Sea area, 86 per cent is under the de facto jurisdiction of the regional councils of settlements, which prohibit Palestinian use, thus denying Palestinians access to their natural resources.

14. Palestinians have virtually no control over the water resources in the West Bank. The route of the wall, which renders 9.4 per cent of West Bank territory inaccessible to Palestinians, except for those who receive a permit, has severe impacts on the control of Palestinians over water resources in the Occupied Palestinian Territory by effectively annexing 51 per cent of the water resources in the West Bank (see E/CN.4/2004/10/Add.2, para. 51). The limitation of access to natural resources, in this case water, is directly connected to the existence of settlements; in its advisory opinion of 2004 the International Court of Justice

[19] Office for the Coordination of Humanitarian Affairs, "The humanitarian impact of Israeli settlement policies", factsheet, January 2012.

[20] Peace Now, Map of settlements in the West Bank and East Jerusalem, November 2011.

concluded that the Israeli settlements constitute the major factor for the deviation of the wall's route from the Green Line (see A/ES-10/273 and Corr.1, para. 119).

V. Settler violence

15. During the reporting period, acts of violence committed by Israeli citizens living in the Occupied Palestinian Territory against Palestinians and their property continued to be perpetrated on a regular basis. Some of those acts resulted in Palestinians being severely injured. Such violent acts seem to have been intended to intimidate and cause fear among the Palestinian population in order to drive them away from certain areas. Destruction of property, especially agricultural lands and acts of violence close to sources of water, has had a grave impact on Palestinians, who depend on those resources for their livelihood. Those acts of violence have had an especially strong impact on vulnerable groups, such as children, by affecting their right to education, as well as Bedouin communities that are already under the threat of displacement. During the reporting period, nine mosques were vandalized by Israeli settlers. The Government of Israel recognized the need to seriously address the issue following a number of acts of vandalism targeting mosques and an attack by Israeli settlers against a base of the Israeli Defense Forces in December 2011. However, as outlined below, the response by the Israeli authorities to settler violence continues to be ineffectual.

A. Impact on Palestinians

1. Personal safety and physical integrity

16. In addition to having the right to life and physical integrity, guaranteed by international human rights law, Palestinians in the Occupied Palestinian Territory are entitled to specific forms of protection under international humanitarian law since they are protected persons according to the Geneva Conventions. Attacks against Palestinians take the form of beatings, throwing stones and shooting at them with live ammunition. The bulk of the injuries that have occurred in clashes between settlers and Palestinians or incidents involving the throwing of stones were caused by settlers. Such repeated acts of violence are perceived by the victims to be a method of intimidation used mainly to discourage Palestinians from accessing certain areas, especially agricultural areas. Between 1 July 2011 and 30 June 2012, Israeli settlers injured 147 Palestinians, including 34 children.[21] The statistics represent a significant reduction in the number of casualties resulting from violent acts perpetrated by Israeli settlers. In the period from September 2010 to May 2011, 5 Palestinians were killed and 270 were injured (see A/66/364, para. 21). Incidents of violence initiated by Palestinians against Israeli settlers in the West Bank resulted in two deaths and 32 injuries during the reporting period.[22] Israeli authorities deployed substantial resources to investigate such incidents and apprehend and prosecute perpetrators in military tribunals. The Secretary-General calls upon the Government of Israel to respond with the same thoroughness and promptness to all acts of violence perpetrated by Israeli settlers against Palestinians.

[21] Statistics compiled by the Office for the Coordination of Humanitarian Affairs.

[22] According to the Office for the Coordination of Humanitarian Affairs Protection of Civilians: Casualties Database.

17. On 26 May 2012, in a case monitored by the Office of the United Nations High Commissioner for Human Rights, a group of Israeli settlers, allegedly from the Yitzhar settlement south of Nablus, torched fields belonging to Palestinians from the village of Urif. As a result, clashes erupted between the settlers and residents of Urif. Settlers opened fire with live ammunition towards the unarmed Palestinians. A group of settlers seized a young Palestinian man, pushed him to the ground and beat him. He was lying on the ground with his hands bound behind his back when he was shot in the abdomen, from a distance of about 10 metres, by an Israeli private security guard from the settlement who had joined the group. During the incident about 40 soldiers of the Israel Defense Forces were deployed in the immediate vicinity for approximately 30 minutes; they attempted to disperse the Palestinians by firing tear gas, rubber bullets, and warning shots.

18. In another case monitored by the same Office on 16 September 2011, four members of a Palestinian family were on their land, located about 1 km from Qusra, when they noticed a group of eight settlers, four of them armed, standing close to the family's well. When a member of the family questioned the settlers about their presence on the land, the settlers started firing into the air in order to scare away the Palestinians. When other Palestinians from the village reached the location, the group of settlers started firing live ammunition towards the ground, which resulted in one of the family members being injured by shrapnel.

2. Access to land and productive resources

19. In addition to causing direct physical injury, acts of violence committed by Israeli settlers have a significant impact on the right of Palestinians to access land and productive resources. Attacks on livelihoods can be direct, such as the destruction of fruit trees and crops. During the reporting period, settlers vandalized more than 8,450 trees owned by Palestinians throughout the West Bank, typically burning, uprooting, poisoning with chemicals or otherwise destroying them, mostly in areas adjacent to settlements, at times when the access of the Palestinians was restricted.[23] Settler violence heightens during the olive harvest (between October and December each year). Approximately 40 settler attacks took place during the olive harvest season in 2011, leading to the damage of approximately 1,500 trees and the injury of 16 Palestinians.[23] Violence against Palestinians also has an adverse effect on their access to livelihoods. Palestinian access to agricultural land in the vicinity of settlements has been limited not only by physical barriers but also by Israeli settlers persistently intimidating them. Indeed the majority of acts of violence directed against Palestinians occurs in agricultural or grazing areas. Such violence appears to be meant to spread fear among Palestinians who, because they are at risk of being victims of settler attacks, no longer go to certain areas that they had been cultivating for the purpose of sustenance. For example, in the area surrounding the villages of Burin, Iraq Burin and 'Asira al-Qibiliya settler violence targeting Palestinian residents and their property increased sharply in 2011. In the one-month period from 30 June to 29 July 2011 alone, settlers reportedly set fire to agricultural land within the Burin cluster on at least 5 separate occasions, resulting in the destruction of 1,800 dunums of agricultural land and 1,721 olive trees.[24]

[23] Statistics compiled by the Office for the Coordination of Humanitarian Affairs.

[24] According to information collected by the United Nations Relief and Works Agency for Palestine Refugees in the Near East.

20. In response to difficulties faced by Palestinians in accessing private agricultural land located within the fenced-off areas of Israeli settlements, or in areas where incidents of settler violence are recurrent, a "prior coordination" regime is applied by the Israeli authorities. Registered Palestinian farmers are allocated a limited number of days during which they can access their land through the settlement gate and/or be protected by Israeli forces during the time they work in the field. Such an access regime has been implemented in the past few years mostly during the olive harvest season, rendering access at other times uncertain and dangerous. The application of the prior coordination regime as such continues to be of concern. The regime puts the onus of adapting to the access restrictions on the Palestinian farmers rather than on the violent settlers. The procedure has also proven to be ineffective in preventing attacks against trees and crops, as most attacks occur outside the times allocated through the coordination process.

21. Israeli settler activity has increasingly infringed on Palestinian access to and use of water springs. The main methods used by settlers to that end have been threats, intimidation and the erection of fences around the targeted areas. In the vicinity of Israeli settlements, 56 water springs in the West Bank have become the target of settler activities. Of those springs, 30 have been taken over completely by Israeli settlers and the other 26 are at risk of being taken over, as a consequence of frequent visits by settlers and their armed escorts and patrols. The inability of Palestinians living in affected communities to gain access to and use water springs has significantly undermined their livelihoods and security. Many farmers had been forced either to cease cultivation or face reduced productivity. Herders and households have been forced to increase their expenditures on the purchase of piped or tanked water. The presence of armed settlers at the springs and their surroundings also has generated friction and clashes.

3. Impact on the enjoyment of the rights of the child

22. Palestinian children are affected by acts of violence perpetrated by Israeli settlers. The violence has resulted in injuries, a situation that demonstrates that Israel is not fulfilling its obligations under article 19 of the Convention on the Rights of the Child on the right to protection from all forms of physical and mental violence, and has had significant impacts on the right of children to education. During the reporting period, 28 Palestinian children, 6 girls and 22 boys, were injured by Israeli settlers. Of such incidents, 22 per cent occurred in the old city of Hebron and 14 per cent occurred in East Jerusalem (see CRC/C/GC/13). Palestinian children have been injured by settlers; their injuries were caused by physical assault, beating with sticks, throwing of stones, spraying with pepper and being hit with shrapnel from live ammunition. For instance, on 28 April 2012, a 10-year-old boy was injured by stones thrown by Israeli settlers in Hebron. Another incident involved a 10-year-old boy beaten by settlers while he was walking home from school in the Silwan neighbourhood of East Jerusalem. In another instance, on 6 March 2012, a 13-year-old boy was injured by shrapnel that struck his eye when settlers fired live ammunition at Palestinian children playing at the Wadi An Nabe' spring near Ramallah.

23. During the period covered by the present report, Israeli settlers reportedly perpetrated violence against Palestinian schools: 8 incidents were reported in which more than 1,600 students were affected. In one instance, at around noon on 13 October 2011, Israeli settlers threw stones and empty bottles at the Qurdoba

Elementary School in Hebron and attempted to break into the school. When teachers intervened to prevent the settlers from breaking in, the settlers assaulted them. Israeli soldiers were present in the area at the time, but did not intervene to stop the assault or apprehend suspects.

24. Settler violence has also been documented in relation to obstructing access of Palestinian children to schools and harassing them on their way to and from school. During the reporting period, 6 cases of violence were reported, in which 46 students were affected. In one instance, on 5 February 2012 Israeli settlers denied 16 students access to Tiwana Basic School in the Tuba area south of Hebron. The only access to the school passes through a settlement gate.[25]

25. In some locations in the West Bank, Palestinian children continue to require Israel Defense Forces escort protection against potential attacks by settlers. For example, in At-Tuwani, children have to wait for such an escort to accompany them to and from school. Delays in the arrival of the escort both in the morning and afternoon have been recorded, resulting in lost school time.

26. Violence by Israeli settlers results in displacement, which affects children in particular. For example, between 25 and 27 July 2011, 19 families from the Bedouin community of Al-Baqa'a left their homes as a result of settler violence allegedly originating in the Ma'ale Mikhmas settlement. In Al-Baqa'a, a total of 127 individuals were displaced, including 81 children. In an especially serious incident that led to the evacuation of families, a group of settlers entered Al-Baqa'a on 19 July and threatened to take the Palestinians' livestock and burn their supply of animal fodder. The confrontation ended in an exchange of stone-throwing between the settlers and the community members: three Palestinian children were hospitalized while three Palestinians (one man and two boys) were arrested by Israeli security forces.

4. Impact on Bedouin communities

27. Bedouin communities in the eastern Jerusalem periphery remain particularly vulnerable to settler activities, including settlement expansion and settler violence, connected with the ongoing threat of forcible transfer faced by many of the communities. Ongoing settler violence in the area, as well as actions taken by Israeli settler organizations against Bedouin communities through Israeli courts, increase the pressure on the Bedouins to relocate.

28. Several Bedouin communities have reported ongoing harassment, intimidation and acts of vandalism by settlers, which they perceive as being aimed at forcing them to leave their homes and relocate. Moreover, the communities residing in that area face continuous pressure as a result of settlement expansion and settler violence.[14,26] Incidents of violence, harassment and provocation by armed settlers against Palestinian civilians, including children, and their property have been frequent. For example, during the night of 4 June 2012, settlers, reportedly from

[25] Statistics and cases provided in paras. 24-28 are based on information gathered by the United Nations Children's Fund.

[26] According to statistics compiled by the Office for the Coordination of Humanitarian Affairs, as at 1 September 2011 at least 755 Palestinians had been forcibly displaced in 2011 owing to demolitions and 127 owing to settler violence; some 40 per cent of the Palestinians were Bedouin.

Shchunat Alon and Nofei Prat settlements, allegedly cut several water pipes supplying five communities in the Khan al-Ahmar cluster, leaving some 700 people without access to water. Following an intervention by the United Nations Relief and Works Agency for Palestine Refugees in the Near East, water was eventually restored to all the communities.

29. In July 2011, the Jewish Colonization Association[27] indicated its intention to "relocate" Palestinian communities throughout Area C;[11] the primary target of the relocation plan would be 20 communities[28] located in the Jerusalem periphery.[13] Those acts of violence and intimidation are occurring in the context of the Association's reported plan, thereby rendering Bedouin and herder communities in Area C even more vulnerable in the event that the plan is implemented (see A/67/372).

B. Failure of Israel to maintain public order

30. As the occupying Power, Israel has the obligation to maintain public order in the occupied territory[29] and to ensure that protected persons are safeguarded against all acts of violence or threats thereof.[30] The Secretary-General wishes to recall that protected persons are those who find themselves in the hands of an occupying Power of which they are not nationals: in this case, Palestinians who do not have Israeli citizenship. However, as previously mentioned Palestinians continue to be victims of acts of violence by settlers, and have few protection mechanisms against such threats. The Israel Defense Forces, which are responsible for implementing the occupying Power's obligations, have in numerous cases that were monitored by the Office of the United Nations High Commissioner for Human Rights, failed to protect Palestinians from acts of violence committed by Israeli settlers, even when those acts occurred in the presence of the Israel Defense Forces. The Forces, have recognized that the military commander has the duty to respect the lives of persons and private property and that Israel Defense Forces present during an incident are authorized, as well as obligated, to detain and also arrest those suspected of criminal activity.[31] Notwithstanding the fact that the issue of the Israel Defense Forces not taking appropriate measures while acts of violence were being perpetrated in their presence was raised in the last report to the General Assembly concerning Israeli settlements (A/66/364), such incidents continue to be reported. During the reporting

[27] The Association is responsible for implementing policies of the Government of Israel in the West Bank; it is part of the Coordinator of Government Activities in the Territories unit of the Ministry of Defense.

[28] These communities have a combined population of 2,300; Palestinian refugees account for 80 per cent of the total. The relocation initiative is part of a wider plan to transfer the Bedouin and other pastoral communities throughout Area C.

[29] See article 43 of the Hague Regulations annexed to the Fourth Geneva Convention respecting the Laws and Customs of War on Land of 18 October 1907.

[30] Under article 27 of the Fourth Geneva Convention, Israel, as the occupying Power, also has the obligation under international human rights law to protect the right to life and physical integrity of Palestinians.

[31] Yesh Din, *A Semblance of Law: Law Enforcement upon Israeli Civilians in the West Bank*, June 2006.

period, at least six similar incidents were documented by an Israeli human rights organization.[32]

31. In an incident monitored by the Office of the United Nations High Commissioner for Human Rights, a large group of masked individuals (reportedly about 200, some of whom were armed) descended into 'Asira al-Qibiliya village from Yitzhar settlement just after midnight on 12 December 2011, and threw stones and empty bottles at the houses, causing extensive property damage. Patrols of Israel Defense Forces arrived approximately 15 minutes later, at which point the settlers retreated up the hill towards the Yitzhar settlement. Palestinian residents reported that the patrols did not detain any of the perpetrators, but rather ordered the residents of the village to go inside their houses; then they cleared the area by detonating stun grenades and illuminating the area with flares. A complaint was filed with the Israeli police but the investigation was subsequently closed due to "lack of evidence". The incident occurred after Israeli authorities announced plans to dismantle Mitzpe Yitzhar outpost, located outside the Yitzhar settlement; therefore, it could be reasonably understood to be a "price-tag" attack, a strategy devised by settler groups to perpetrate acts of violence against Palestinians, their property, or the Israel Defense Forces, in response to the dismantling of settlements.

32. In another incident monitored by the Office of the United Nations High Commissioner for Human Rights, a group of about 50 settlers, most of them armed and allegedly from the Yitzhar settlement, approached the same Palestinian village, 'Asira al-Qibiliya, on 19 May 2012. They set fire, in four or five different locations, to fields of grain and groves of olive trees, and started throwing stones at the houses. The villagers gathered to try to put out the fires. Both sides started to throw stones. The Israel Defense Forces arrived in the area approximately 15 minutes after the incident had started. A group of Palestinian youth trying to reach a field that was on fire met a group of armed settlers who were approximately 30 metres away, and who were accompanied by three soldiers of the Israel Defense Forces. Three of the settlers armed with rifles and pistols opened fire, while the soldiers stood by a few metres away. As a result of the incident, six Palestinians were injured, including one who suffered a gunshot wound.

33. Both of those incidents and others involving settler violence mentioned in the present report took place in the vicinity of the settlement of Yitzhar, which has a history of settler violence. The incident of 12 December 2011 occurred after Israeli authorities announced plans to dismantle the Mitzpe Yitzhar outpost. An unusually large number of vehicles were seen approaching Yitzhar settlement on the evening preceding the incident, and there were reports that social media had been used to mobilize settlers to defend the outpost. Based on those observations and that in the past such announcements had led to so-called price-tag incidents, it could have been anticipated that violence would occur at the hand of extremist settlers. Yet the Israel Defense Forces failed to take action to prevent a group of 200 settlers from attacking a Palestinian village. The repeated incidents of settler violence occurring south of Nablus in the villages surrounding Yitzhar settlement demonstrate a failure or lack of willingness by the Israel Defense Forces to ensure public order.

34. On 23 September 2011, in Qusra, clashes erupted between Palestinians and a group of settlers who had trespassed onto privately owned Palestinian land. The

[32] See B'Tselem's website: www.btselem.org.

Israel Defense Forces present at the location refused to remove the settlers and instead focused their efforts on dispersing the Palestinians. The soldiers formed a line and stood between the settlers, some of whom were armed, and the Palestinians. The Forces initially used tear gas to disperse the Palestinians, then resorted to rubber bullets and finally live ammunition, resulting in the death of an unarmed Palestinian. It was subsequently reported in the media that the commander of the Israel Defense Forces unit involved in the death of the Palestinian civilian was relieved from his post but remained in the Israel Defense Forces.[33]

35. An examination of cases that involved clashes between Israeli settlers and Palestinians in the presence of soldiers of the Israel Defense Forces raises serious questions as to whether the Forces are capable and willing to ensure public order in a non-discriminatory manner. As shown in the above-mentioned cases, in situations involving confrontation between Israeli settlers and Palestinian civilians, soldiers of the Israel Defense Forces appear to defer to the will and desires of settlers. This type of situation leads to serious concern that the Israel Defense Forces are placing more importance on safeguarding the settlers and their freedom of movement than on the legal obligation of the Forces to protect the local Palestinian population. Yet one of the main obligations of the Israel Defense Forces as the agent of the occupying Power is to ensure that protected persons — in this case Palestinians — are not subjected to acts of violence. That observation seems to indicate that the presence of Israeli citizens living in the Occupied Palestinian Territory creates confusion within the Israel Defense Forces regarding their legal obligation to protect Palestinians and raises concerns that law and order are enforced in a discriminatory manner in the West Bank, including East Jerusalem.

36. In one case documented by the Office of the United Nations High Commissioner for Human Rights, the Israel Defense Forces and Israeli police reacted promptly to an incident of settler attack. On 20 August 2011, close to Jaba village in Ramallah district, a Palestinian man resting while grazing his sheep was awoken by the sound of his sheep being attacked by a settler who had killed two of his sheep and injured three. At the same moment, two other settlers attacked the Palestinian man, beating him with metal pipes and throwing stones at him. The injured Palestinian man ran away and alerted the guard of a nearby settlement, who alerted the police and ambulance crews. The Israeli police and the Israel Defense Forces searched the area, located the group of settlers and detained them. The Palestinian man was then brought to the police station to identify the three attackers. At the time the present report was being prepared no further information was available on the investigations or resultant judicial processes. The Secretary-General calls on the Israel Defense Forces to react in the above-mentioned manner in all cases of settler violence targeting Palestinians. It is unfortunate that to date such cases have been the exception rather than the rule.

C. Rule of law and lack of accountability

37. The Secretary-General is concerned that a lack of accountability persists with regard to acts of violence committed by Israeli settlers against Palestinians. In addition to failing to protect Palestinians in the occupied territory from violence, the Israel Defense Forces have not respected their obligation to maintain public order,

[33] "Events following violent riot near Qusra", Israel Defense Forces, 23 September 2011.

by allowing impunity for settlers who have committed acts of violence against Palestinians. Even if the Israeli police are in charge of investigating alleged criminal activity by Israeli citizens in the Occupied Palestinian Territory, the ultimate duty-bearer of that obligation remains the Israel Defense Forces, as they are responsible for exercising the authority of the Government of Israel over the territory. It should be noted that this issue has been addressed in previous reports. The last report examined this issue in detail (see A/66/364, para. 22) and underlined that the Government of Israel has been aware of this problem following publication of the Karp report in 1984.[34]

38. In a recent report by an Israeli human rights organization that has been helping Palestinians file complaints in cases of settler violence, it was stated that 91 per cent of the investigations launched as a result of complaints filed with the assistance of the organization had been closed without an indictment being served against suspects.[35] Of the 781 investigations monitored between 2005 and 2011, indictments were served in only 59 cases, or 9 per cent of the total number of investigations. The majority of investigations that were closed without an indictment had been terminated on grounds of "offender unknown" in 401 cases, or "insufficient evidence" in 138 cases; the rest of the cases were closed on the grounds of "absence of criminal culpability". Another Israeli civil society organization reported that between July 2011 and June 2012, the period covered by the present report, it had documented a total of 39 cases of settler violence; of that number 18 were under investigation by the police, 1 was being reviewed by the prosecutor and 2 resulted in charges being presented.[36]

39. Lack of accountability permeates all types of acts of violence committed by Israeli settlers against property and persons. Impunity for acts of violence that have had serious consequences, such as the death of Palestinian civilians, continues to generate concern. In a number of cases monitored by the Office of the United Nations High Commissioner for Human Rights, that is, of killings by settlers or settler guards that occurred between September 2010 and May 2011, no one has been charged.[37] For example, on 13 May 2010 a group of four Palestinian boys was throwing stones at cars on Route 60, a road regularly used by settlers to travel to Jerusalem, when a car allegedly driven by Israeli citizens from a nearby settlement stopped and one of the passengers opened fire, killing one of the boys (see A/HRC/16/71, para. 43). The investigation in that case was closed on the grounds of "offender unknown". On 22 September 2010, an unarmed Palestinian man was shot dead in the Silwan neighbourhood of East Jerusalem by a private guard employed by the Ministry of Construction and Housing to protect one of the settlements in that neighbourhood (see A/HRC/16/71, para. 43). When the present report was being finalized, the police investigation was ongoing, and no one had been indicted. On 13 May 2011, in the same neighbourhood a 17-year-old was shot and killed by

[34] Yehudit Karp, *The Karp Report: An Israeli Government Inquiry into Settler Violence against Palestinians on the West Bank* (Beirut, Institute for Palestine Studies, 1984).

[35] Yesh Din, *Law Enforcement upon Israeli Civilians in the West Bank*, Yesh Din Monitoring Update, data sheet, March 2012.

[36] The information was provided directly to and is on file with the Office of the United Nations High Commissioner for Human Rights.

[37] Although these incidents took place outside of the reporting period, it is important to allow some time for the progress of investigations in order to evaluate accountability or the lack thereof.

someone who had opened fire from a window in the Beit Yonatan settlement. According to the information available, the police have finished their investigation and the file is being reviewed by the Office of the State Attorney. Yet, more than a year after the incident, no one has been indicted for the killing (for more detailed analysis on discriminatory practices, see A/66/364).

VI. Other human rights violations linked to the presence of settlers

40. Settlements and violence committed by Israeli settlers directly resulted in a number of human rights violations that have been examined in the present and prior reports to the General Assembly concerning Israeli settlements. They include violations of the right to life and physical integrity, displacement, house demolition and discriminatory practices in both law enforcement and planning and zoning regimes. In addition, settlements and the presence of Israeli settlers give rise to a large number of other indirect violations, such as limitations on freedom of movement, use of excessive force by the Israel Defense Forces in operations designed to protect the settlements and limitations on freedom of expression and assembly.

41. The Israel Defense Forces impose a range of limitations on the freedom of movement of Palestinians. The vast majority of those limitations are due to the presence of settlements, or they are imposed to ensure the security of settlers and to facilitate their travel throughout the West Bank. There are more than 500 internal checkpoints, roadblocks and other physical barriers that impede the movement of Palestinians inside the West Bank.[38] Most of those obstacles to freedom of movement are located in the vicinity of settlements or are intended to restrict or limit the access of Palestinians to roads that are used by Israeli settlers. In addition, the route of the wall does not follow the Green Line, although it was to be built purportedly for security reasons. Upon completion of that structure, approximately 85 per cent of the 708-km wall will be located inside the West Bank, rendering some 9.4 per cent of West Bank territory, including the so-called no man's land, on the western side of the wall inaccessible to Palestinians, except for those holding special permits. The major reason for the deviation in the route of the wall from the Green Line is to enable the inclusion of Israeli settlements together with areas planned for future expansion (see A/ES-10/273 and Corr.1, para. 119). The area on the western, or "Israeli", side of the wall includes 71 of the 150 settlements and more than 85 per cent of the total settler population in the West Bank, including East Jerusalem.

42. One example of limitation of movement linked to the presence of Israeli settlers is the situation in Hebron. Approximately 6,000 Palestinians live in areas adjacent to settlements in the old city of Hebron. There are more than 120 physical obstacles deployed by the Israel Defense Forces that segregate the restricted areas from the rest of the city, including 18 permanently staffed checkpoints. Several streets in restricted areas leading to Israeli settlements are prohibited to Palestinian traffic and some even to pedestrian movement. The Israeli authorities justify such

[38] Office for the Coordination of Humanitarian Affairs, "The humanitarian impact of Israeli settlement policies", factsheet, January 2012.

prohibitions as necessary to enable Israeli settlers residing in the city to lead a normal life and to ensure their protection and that of other Israeli visitors.

43. Search and arrest operations conducted by the Israel Defense Forces are often linked to the protection of settlers and settlement property. In a number of cases documented by the Office of the United Nations High Commissioner for Human Rights, the use of excessive force during such operations has led to death and injury among Palestinian civilians. In one instance, an Israel Defense Forces search and arrest operation was conducted on 1 August 2011 in Qalandia refugee camp. The presence of soldiers became known to the residents of the camp and the throwing of stones ensued. In a separate area of the camp where no clashes were occurring, another group of soldiers came face to face with a group of five unarmed men. The soldiers opened fire, killing two of the men and injuring another. The operation was aimed at arresting three teenage boys who were suspected of throwing stones at the security fence and surveillance cameras of a settlement and setting fire to a field which spread to land within the settlement area, damaging a number of trees.

44. Freedom of expression and the right of Palestinians to peaceful assembly are restricted by the Israel Defense Forces in order to protect settlements or to ensure that the normal daily life of Israeli settlers is not disrupted. Most weekly demonstrations are held to protest the occupation, the continued expansion of settlements and the construction of the wall. Often zones used for weekly protests by Palestinians are located close to the wall or to roads used by Israeli settlers, which demarcate the area of a settlement, for example in Bil'in and Ni'lin. The case of the weekly protest in the village of Nabi Saleh is illustrative. Since 2009, Palestinians have gathered to protest the takeover by the Hallamish settlement of a water spring belonging to the village. Every Friday the protesters attempt to walk to the spring; however, to do so they must walk along a road used by Israeli settlers. Every Friday the Israel Defense Forces prevent even peaceful protesters from reaching the road by declaring the zone between the village and the road a closed military area. If the protesters approach the main road, the Israel Defense Forces use crowd dispersal methods to deter them. Since the weekly protests began in Nabi Saleh, numerous incidents of excessive use of force by the Israel Defense Forces have been reported, resulting in dozens of casualties, including one death in December 2011. Conversely, when Israeli settlers decided to protest the evacuation of the Ulpana outpost in June 2012, by organizing a march to Jerusalem, the Israel Defense Forces allowed the protest and limited traffic on Route 60, the main north-south artery in the West Bank, in order to enable the march to proceed.

VII. Settlements in the occupied Syrian Golan

45. The Government of Israel continues to occupy the Syrian Golan Heights. Within the context of that occupation, the activities of Israel consist of legal and administrative measures to provide socioeconomic incentives, security, infrastructure and social services to its citizens residing in the occupied Syrian Golan, which amounts to the illegal transfer of its population into occupied territory. Such activities continued during the reporting period, including through the issuance of tenders for the construction of an additional 69 units in the Israeli settlement of Katzrin.[39] The most recent estimates available indicate that approximately 19,000

[39] Sara Hussein, "Israel unveils tenders for 1,121 new settler homes", Agence France Presse,

Israelis have settled in 33 Israeli settlements in the occupied Syrian Golan.[40] That figure nearly equals the number of Syrians who live in the occupied Syrian Golan.[40] The Secretary-General recalls that in Security Council resolution 497 (1981), it was decided that the Israeli decision to impose its laws, jurisdiction and administration in the occupied Syrian Golan Heights is null and void and without international legal effect. The Secretary-General further recalls that in the same resolution, the Security Council demanded that Israel, the occupying Power, should rescind forthwith its decision, and determined that all the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, "continue to apply to the Syrian territory occupied by Israel since June 1967".

VIII. Conclusions and recommendations

46. **Despite the past commitments of Israel to freeze settlement activity, the Government of Israel continues to encourage the transfer of its population into the Occupied Palestinian Territory, by expanding settlements and building additional housing units.**

47. **The number of settlements, the number of Israeli settlers and the associated security measures designed to protect them and their freedom of movement and expanse of territory under the de facto jurisdiction of regional and local settlement councils violate the right to self-determination of the Palestinian people. The settlements present an existential threat to the viability of a future Palestinian state. The Secretary-General notes that the International Court of Justice described the violation by Israel of the Palestinian people's right to self-determination as the violation of an *erga omnes* obligation. Therefore that violation is a matter of concern to all States (see A/ES-10/273 and Corr.1, para. 155).**

48. **Acts of violence committed by Israeli settlers against Palestinians, their property and places of worship continue to occur regularly throughout the West Bank, including East Jerusalem. Israel, as the occupying Power, must take all measures to ensure the protection of the Palestinians and their property in the West Bank, including East Jerusalem, from all such acts of violence.[41] While there has been a decrease in the number of injuries, the continued occurrence of violence and attacks is alarming. The Secretary-General condemns all acts of violence destined to cause fear and terror among civilian populations in the occupied Palestinian territories and calls upon the Israel Defense Forces to ensure public order and accountability for all acts of violence in a non-discriminatory manner.[42] The Israel Defense Forces should take all necessary measures to prevent and respond to violence perpetrated by Israeli settlers with the same thoroughness and promptness as in the case of acts of**

4 April 2012.

[40] See "Occupied Golan: nurturing ties with the rest of Syria", International Committee of the Red Cross, 15 February 2011.

[41] See articles 43 and 46 of the Hague Regulations and article 27 of the Fourth Geneva Convention.

[42] See article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination.

violence perpetrated against settlers. Failure to do so and the lack of accountability when such acts have already occurred contribute to a culture of impunity that allows such acts to continue. That situation constitutes a violation of the obligation of Israel to protect the right to life and to physical integrity of the Palestinian people and to maintain public order in the occupied territory. The Secretary-General is also deeply concerned by attacks on places of worship and the potential such attacks have for producing negative consequences on public order in the Occupied Palestinian Territory.

49. **The Government of Israel must respect its obligations under international law by freezing all settlement activity in line with the road map and ceasing measures that amount to the transfer of its own population into the occupied territory. The Secretary-General has called on the Government of Israel to begin the process of re-integrating the settler population into its own territory, with a view to respecting its obligations under article 49 of the Fourth Geneva Convention and putting an end to the violations of human rights that are linked to the presence of settlements, especially the right to self-determination.**